

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 6-10-93 cm

CERTIFIED TRUE COPY

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

In the Matter of the Suspension)	
or Revocation of the License of)	Administrative Action
BURTON S. ROSEN, D.D.S.)	
To Practice Dentistry in the)	ORDER
State of New Jersey)	

This matter was opened to the State Board of Dentistry ("Board") upon the filing of an Order to Show Cause and Complaint of Robert J. Del Tufo, Attorney General of New Jersey, by Anne Marie Kelly, Deputy Attorney General, against Burton S. Rosen, D.D.S. (hereinafter, sometimes "respondent"). The Complaint, filed on April 20, 1993, alleged in two counts that respondent failed to comply with the Board's repeated demands for the patient records of A.K. and V.W. Said conduct was alleged in both counts to constitute repeated acts of negligence, professional misconduct, and a failure to comply with the provisions of regulations administered by the Board in violation of N.J.S.A. 45:1-21(d), (e), and (h) respectively. Respondent did not file any written response to the Complaint.

A hearing was held before the Board of Dentistry on June 2, 1993, the return date of the Order to Show Cause. Deputy Attorney General Joyce Brown appeared on behalf of the complainant, and Dr. Rosen appeared pro se. The respondent was advised of his right to be represented by counsel during the course of these proceedings, but he stated that it was his

intention to go forward without counsel and present his own defense.

D.A.G. Brown advised the Board that the patient records for A.K. and V.W. which previously had not been provided by the respondent and which were the subject of the allegations in Counts I and II of the Complaint had been produced on this date just prior to the hearing. She also advised the Board that the respondent is a repeat offender of the Board's regulations in that he has previously failed to comply with Board directives and orders.

Dr. Rosen testified on his own behalf. He did not contest the allegations of the Complaint and acknowledged that he failed to produce the patient records notwithstanding repeated requests from the Board of Dentistry for such patient records. Dr. Rosen stated that he had no excuse and that he simply had a problem whereby he procrastinated and set aside such demands without affirmatively responding to them.

The Board took judicial notice of its own proceedings concerning the respondent thereby making such proceedings a part of the record in the within matter. In view of the fact that the previous proceedings are relevant to the disposition of the instant complaint, a brief summary is set forth herein. On July 13, 1992, an Order to Show Cause and Complaint were filed against the respondent for failure to comply with the Board's repeated demands for the patient records of A.M. and E.M. Subsequent to a hearing the Board's Final Decision and Order was filed on October

6, 1992, imposing a civil penalty in the amount of \$3,500.00 finding that respondent's failure to comply with the Board's repeated demands for patient records as alleged in the Complaint constituted repeated acts of negligence, professional misconduct, and a failure to comply with the provisions or regulations administered by the Board. On March 22, 1993, a Notice of Motion for Enforcement of Litigant's Rights was filed by the Attorney General alleging that the respondent failed to pay the civil penalty as assessed. A hearing was held before the Board on May 5, 1993, at which time respondent did not contest the allegations set forth in the State's application and acknowledged that he failed to pay the civil penalty in the amount of \$3,500.00. In addition, respondent acknowledged and agreed that he would make restitution to patient S.D. in the amount of \$2,480.00 and restitution to patient A.M. in the amount of \$766.00. The Board entered an Order imposing an additional civil penalty in the amount of \$1,000.00 and ordering the aforementioned restitution to the two patients. The Order further provided that respondent's license to practice dentistry would be automatically suspended effective June 1, 1993 if the ordered penalty and restitution had not been paid by such date. Dr. Rosen made the required payments just before the close of the business day on June 1, 1993, the day before the hearing on the within complaint.

The Board deliberated on this matter during Executive Session and carefully considered the entire record in this matter including the prior proceedings and the testimony of the

respondent. The Board finds that the respondent's failure to comply with the Board's repeated demands for patient records as alleged in Counts I and II of the Complaint constitute repeated acts of negligence, professional misconduct, and a failure to comply with the provisions or regulations administered by the Board in violation of N.J.S.A. 45:1-21(d), (e), and (h) respectively.

The Board further finds that respondent's status as a repeat offender is one of the most disturbing aspects of this case. This is the third time in less than one year that the respondent has come before the Board for failing to comply with Board demands for patient records and failure to comply with Board directives and orders. The Board deems respondent's repeated failure to respond to Board demands and comply with terms of Board orders to constitute professional misconduct in violation of N.J.S.A. 45:1-21(e).

The Board finding that good cause exists for the entry of the within Order;


IT IS ON THIS 9TH DAY OF JUNE, 1993,

HEREBY ORDERED THAT:

1. Respondent's license to practice dentistry in the State of New Jersey shall be and is hereby suspended for a period of sixty (60) days effective seven (7) days from his receipt of the within Order. Respondent shall immediately thereafter surrender his dentistry license, registration certificate, and DEA/CDS registrations to the Board's designee who shall appear at the

dental offices of the respondent for the purpose of retrieving said credentials. Respondent shall not be permitted to enter upon the premises of his dental facility for any purpose whatsoever during the period of suspension. The respondent shall derive no financial remuneration directly or indirectly related to patient fees paid for dental services rendered during the period of active suspension by other licensees for patients of respondent's practice.

2. Respondent shall be assessed the cost to the State for these proceedings. The amount of costs shall be provided to the respondent in writing by certification of the Executive Director of the Board of Dentistry. Upon receipt of such certification, respondent shall submit a certified check or money order in the stated amount of costs made payable to the State of New Jersey no later than thirty (30) days after receipt of the certification of the Executive Director.



JEROME M. HOROWITZ, D.D.S.
PRESIDENT
STATE BOARD OF DENTISTRY

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 6-10-93 cm

CERTIFIED TRUE COPY

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

In the Matter of the Suspension)	
or Revocation of the License of)	Administrative Action
BURTON S. ROSEN, D.D.S.)	
To Practice Dentistry in the)	ORDER
State of New Jersey)	

This matter was opened to the State Board of Dentistry ("Board") upon the filing of an Order to Show Cause and Complaint of Robert J. Del Tufo, Attorney General of New Jersey, by Anne Marie Kelly, Deputy Attorney General, against Burton S. Rosen, D.D.S. (hereinafter, sometimes "respondent"). The Complaint, filed on April 20, 1993, alleged in two counts that respondent failed to comply with the Board's repeated demands for the patient records of A.K. and V.W. Said conduct was alleged in both counts to constitute repeated acts of negligence, professional misconduct, and a failure to comply with the provisions of regulations administered by the Board in violation of N.J.S.A. 45:1-21(d), (e), and (h) respectively. Respondent did not file any written response to the Complaint.

A hearing was held before the Board of Dentistry on June 2, 1993, the return date of the Order to Show Cause. Deputy Attorney General Joyce Brown appeared on behalf of the complainant, and Dr. Rosen appeared pro se. The respondent was advised of his right to be represented by counsel during the course of these proceedings, but he stated that it was his

intention to go forward without counsel and present his own defense.

D.A.G. Brown advised the Board that the patient records for A.K. and V.W. which previously had not been provided by the respondent and which were the subject of the allegations in Counts I and II of the Complaint had been produced on this date just prior to the hearing. She also advised the Board that the respondent is a repeat offender of the Board's regulations in that he has previously failed to comply with Board directives and orders.

Dr. Rosen testified on his own behalf. He did not contest the allegations of the Complaint and acknowledged that he failed to produce the patient records notwithstanding repeated requests from the Board of Dentistry for such patient records. Dr. Rosen stated that he had no excuse and that he simply had a problem whereby he procrastinated and set aside such demands without affirmatively responding to them.

The Board took judicial notice of its own proceedings concerning the respondent thereby making such proceedings a part of the record in the within matter. In view of the fact that the previous proceedings are relevant to the disposition of the instant complaint, a brief summary is set forth herein. On July 13, 1992, an Order to Show Cause and Complaint were filed against the respondent for failure to comply with the Board's repeated demands for the patient records of A.M. and E.M. Subsequent to a hearing the Board's Final Decision and Order was filed on October

6, 1992, imposing a civil penalty in the amount of \$3,500.00 finding that respondent's failure to comply with the Board's repeated demands for patient records as alleged in the Complaint constituted repeated acts of negligence, professional misconduct, and a failure to comply with the provisions or regulations administered by the Board. On March 22, 1993, a Notice of Motion for Enforcement of Litigant's Rights was filed by the Attorney General alleging that the respondent failed to pay the civil penalty as assessed. A hearing was held before the Board on May 5, 1993, at which time respondent did not contest the allegations set forth in the State's application and acknowledged that he failed to pay the civil penalty in the amount of \$3,500.00. In addition, respondent acknowledged and agreed that he would make restitution to patient S.D. in the amount of \$2,480.00 and restitution to patient A.M. in the amount of \$766.00. The Board entered an Order imposing an additional civil penalty in the amount of \$1,000.00 and ordering the aforementioned restitution to the two patients. The Order further provided that respondent's license to practice dentistry would be automatically suspended effective June 1, 1993 if the ordered penalty and restitution had not been paid by such date. Dr. Rosen made the required payments just before the close of the business day on June 1, 1993, the day before the hearing on the within complaint.

The Board deliberated on this matter during Executive Session and carefully considered the entire record in this matter including the prior proceedings and the testimony of the

respondent. The Board finds that the respondent's failure to comply with the Board's repeated demands for patient records as alleged in Counts I and II of the Complaint constitute repeated acts of negligence, professional misconduct, and a failure to comply with the provisions or regulations administered by the Board in violation of N.J.S.A. 45:1-21(d), (e), and (h) respectively.

The Board further finds that respondent's status as a repeat offender is one of the most disturbing aspects of this case. This is the third time in less than one year that the respondent has come before the Board for failing to comply with Board demands for patient records and failure to comply with Board directives and orders. The Board deems respondent's repeated failure to respond to Board demands and comply with terms of Board orders to constitute professional misconduct in violation of N.J.S.A. 45:1-21(e).

The Board finding that good cause exists for the entry of the within Order;

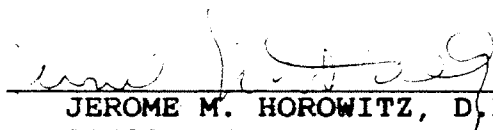
IT IS ON THIS 9th DAY OF JUNE, 1993,

HEREBY ORDERED THAT:

1. Respondent's license to practice dentistry in the State of New Jersey shall be and is hereby suspended for a period of sixty (60) days effective seven (7) days from his receipt of the within Order. Respondent shall immediately thereafter surrender his dentistry license, registration certificate, and DEA/CDS registrations to the Board's designee who shall appear at the

dental offices of the respondent for the purpose of retrieving said credentials. Respondent shall not be permitted to enter upon the premises of his dental facility for any purpose whatsoever during the period of suspension. The respondent shall derive no financial remuneration directly or indirectly related to patient fees paid for dental services rendered during the period of active suspension by other licensees for patients of respondent's practice.

2. Respondent shall be assessed the cost to the State for these proceedings. The amount of costs shall be provided to the respondent in writing by certification of the Executive Director of the Board of Dentistry. Upon receipt of such certification, respondent shall submit a certified check or money order in the stated amount of costs made payable to the State of New Jersey no later than thirty (30) days after receipt of the certification of the Executive Director.



JEROME M. HOROWITZ, D.D.S.
PRESIDENT
STATE BOARD OF DENTISTRY